

SEP 29 1962

JOHN F. DAVIS, CLERK

IN THE  
**SUPREME COURT OF THE UNITED STATES.**

No. 38.

OCTOBER TERM, 1962.

LOS ANGELES MEAT AND PROVISION DRIVERS UNION,  
LOCAL 626; INTERNATIONAL BROTHERHOOD OF TEAM-  
STERS; CHAUFFEURS, WAREHOUSEMEN AND HELPERS  
OF AMERICA; MEYER SINGER; LEE TAYLOR; HUBERT  
BRANDT; WALTER KLEIN; and HAROLD CARLIS,

Appellants,

vs.

UNITED STATES OF AMERICA,  
Appellee.

On Appeal from the United States District Court for the  
Southern District of California, Central Division.

**APPELLANTS' REPLY BRIEF.**

DAVID PREVIANT,  
212 West Wisconsin Avenue,  
Milwaukee 3, Wisconsin,  
CHARLES HACKLER,  
1621 West Ninth Street,  
Los Angeles 15, California,  
Attorneys for Appellants,

IN THE  
**SUPREME COURT OF THE UNITED STATES.**

No. 38.

OCTOBER TERM, 1962.

---

LOS ANGELES MEAT AND PROVISION DRIVERS UNION,  
LOCAL 626; INTERNATIONAL BROTHERHOOD OF TEAM-  
STERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS  
OF AMERICA; MEYER SINGER; LEE TAYLOR; HUBERT  
BRANDT; WALTER KLEIN; and HAROLD CARLIS,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

---

On Appeal from the United States District Court for the  
Southern District of California, Central Division.

---

**APPELLANTS' REPLY BRIEF.**

---

**ARGUMENT**

The Union in its principal brief demonstrated that the Justice Department as a matter of enforcement policy seeks decrees requiring the expulsion from membership of non-employed union members upon proof of an anti-trust violation (Union Br. pg. 9). Although the Justice Department argues at length the facts demonstrating the

existence of a conceded violation of the Sherman Act, it does not deny the existence of such "enforcement policy".

Moreover, the Justice Department virtually concedes the inappropriateness of an expulsion from membership decree in any case in which the existence of present, active job competition between employee and non-employee members is established by testimonial evidence (Gov. Br. pp. 27-31). Historical facts, the experience of the Interstate Commerce Commission and the findings of impartial students are not relevant according to the Justice Department. Rather the Justice Department insists that the case must turn upon the existence or absence of testimonial evidence.

Much is made of the fact that the Union stated an intention to prove by testimonial evidence the existence of a factual pattern similar to *every other* case involving owner-drivers or peddlers which has been before this Court and that the stipulation does not reflect such facts (Gov. Br. pg. 28). At the time the stipulation was "negotiated" there were and are several substantial civil anti-trust actions growing out of the facts involved in this case pending in the federal courts. Had the Union unsuccessfully contested the fact of violation in this case, its position in the civil litigation would have been seriously prejudiced. In these circumstances, the Union was compelled to stipulate to the facts asserted by the Justice Department. Except for one paragraph (R. 57, Finding 6) none of the evidence available to the Union is reflected in the stipulation and this is the result of a lack of negotiating power rather than lack of evidence.

In any event, this Court need not and should not blind itself to critical impact of the owner-driver, peddler, vendor system upon Union wages and conditions. The teaching of history is too plain to permit such a course.

## **CONCLUSION**

For the foregoing reasons, the challenged provisions of the judgment below should be set aside.

Respectfully submitted,

**DAVID PREVIAIT,**

212 West Wisconsin Avenue,

Milwaukee 3, Wisconsin.

**CHARLES HACKLER,**

1621 West Ninth Street,

Los Angeles 15, California.

Attorneys for Appellants